



# COMMONWEALTH of VIRGINIA

## Department of Information Technology

110 SOUTH SEVENTH STREET  
RICHMOND, VIRGINIA 23219  
(804) 371-5000

Michael E. Thomas  
Deputy Secretary of  
Technology/  
Agency Director

TDD VIOCE - TEL. NO.  
371-8076

February 8, 2000

Dear Vendor:

You are hereby invited to submit a proposal for Seat Management Services (SMS) in accordance with the mandatory and desirable requirements set forth in the attached Request for Proposals (RFP) #2000-15. This RFP is being issued by the Department of Information Technology (DIT) on behalf of all agencies, institutions and localities of the Commonwealth of Virginia.

The Request for Proposal document is available on the ASD Internet Web Site at: <http://asd.state.va.us>.

The original proposal, signed by your contractually binding authority, with ten (10) additional copies, must be received by the Issuing Office not later than 2:00 p.m. (EST) April 12, 2000.

A MANDATORY PREPROPOSAL CONFERENCE will be held in the 4<sup>th</sup> Floor Auditorium, DIT, 110 S. 7<sup>th</sup> Street, Richmond, Virginia, at 10:00 a.m. on March 7, 2000. No one will be admitted after 10:15 a.m. Vendors may use this time period as an opportunity to ask questions and/or clarify understanding of the requirements of this solicitation. Additionally, vendors are limited to no more than 3 attendees.


The Commonwealth will not pay for the information requested and reserves the right to reject any and all proposals received.

All inquiries related to this RFP must be submitted in writing to:

Seat Management Services  
Commonwealth of Virginia  
Department of Information Technology  
110 S. 7<sup>th</sup> Street – Lobby floor  
Richmond, Virginia 23219  
(804) 371-5969 (facsimile), or  
[seatmanagement@asd.state.va.us](mailto:seatmanagement@asd.state.va.us) (e-mail)

These inquiries must be received by February 29, 2000. Verbal inquiries will not be accepted prior to the proposal conference. No oral requests for information will be accepted.

Sincerely,

 Larry F. Schucht, Director  
Acquisition Services Division

**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT of INFORMATION TECHNOLOGY**  
**Acquisition Services Division**  
**RICHMOND, VIRGINIA 23219**  
**REQUEST FOR PROPOSAL (RFP)**

**DELIVER TO:**

Reception Desk, East Lobby  
110 S 7th Street

Issue Date: **February 8, 2000**

**MAIL TO:**

110 S. 7<sup>th</sup> Street  
Richmond, VA 23219

RFP # 2000-15

Title: **Seat Management Services (SMS)**

For: **Commonwealth of Virginia** (COV) agencies, institutions of higher education, their students, and other public bodies.

Sealed proposals will be received until: **2:00 PM (EST) April 12, 2000** at the address listed above for furnishing the Services described herein. Proposals must be sealed, with title, RFP number, and closing date identified on the envelope in order to determine the proposal to which it is applicable. No other correspondence or other proposals should be placed in the envelope. Late proposals will not be accepted.

It is the responsibility of the offeror to inquire about and clarify any issues concerning the Statement of Needs or the desires of COV for the Services identified in this RFP, that are not understood. **NO ORAL REQUEST FOR INFORMATION WILL BE ACCEPTED.** All inquiries concerning this RFP must be submitted in writing to the attention of:

Seat Management Services  
Virginia Department of Information Technology  
110 S. 7<sup>th</sup> Street, East Lobby/ASD  
Richmond, Virginia, 23219  
(804) 371.5969 (facsimile), or  
[seatmanagement@asd.state.va.us](mailto:seatmanagement@asd.state.va.us) (e-mail)

All written inquiries must be received by the Issuing Office on or before the close of business on February 29, 2000. DIT IS UNDER NO OBLIGATION TO ACCEPT QUESTIONS AFTER THIS DATE.

A **mandatory pre-proposal conference** is to be held at 10:00 a.m. on March 7, 2000 at the 4<sup>th</sup> floor auditorium at DIT at 110 S. 7<sup>th</sup> Street, Richmond, Va. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation. Attendance at this conference is a prerequisite. No one will be admitted after 10:15 a.m. Any changes resulting from this conference will be issued in writing to all firms attending in-person.

Pursuant to Virginia Code 18.2-498.4, the offeror hereby certifies that this proposal was not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce, or any act of fraud punishable under the Virginia Government Frauds Act. In compliance with this Request For Proposal and all conditions imposed herein, the undersigned offers and agrees to furnish the Services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation. By executing this document, I hereby warrant that I am authorized to bind my firm to this proposal.

Company Name & Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

By \_\_\_\_\_  
Signature, (in ink)

Name \_\_\_\_\_

Title \_\_\_\_\_

Telephone Number \_\_\_\_\_

FIN or SS # \_\_\_\_\_

Fax Number \_\_\_\_\_

E-mail address \_\_\_\_\_

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# ***COMMONWEALTH of VIRGINIA***

## **Department of Information Technology**

### **Acquisition Services Division**

**Request for Proposal**

**RFP # 2000-15**

### **Seat Management Services**

*for the*

***Commonwealth of Virginia***

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**EXECUTIVE SUMMARY****RFP # 2000-15 - Seat Management Services (SMS)**


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<b>RFP Issue</b>	<b>2/8/2000</b>
<b>Written inquiries must be received by</b>	<b>2/29/2000</b>
<b>Mandatory Pre-Proposal Conference</b>	<b>3/7/2000</b>
<b>Proposals Due</b>	<b>4/12/2000</b>

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**Purpose of SMS**

Up to Three Separate Statewide Master Contracts

RFP Page No.

**9**

**SMS is a Services Contract** that provides a per-seat or per-server based, monthly priced, menu of Information Technology Services, which include a choice of up to two Brand families of Contractor owned desktop, portable and server class computers.

**SMS** may include *Desktop* and/or *Enterprise* computing services, in the following categories:

.....	<b>Planning</b>	<b>18</b>
	<b>Acquisition</b>	<b>18</b>
	<b>Installation</b>	<b>18</b>
	<b>Training</b>	<b>19</b>
	<b>Support</b>	<b>19</b>
	<b>Management</b>	<b>19</b>
	<b>Disposal</b>	<b>19</b>

<b>Contract Term:</b>	<b>3 Years*</b>	<b>19</b>
	(*thereafter, 4 optional, annual renewal periods)	

<b>Technology Refreshment Selection Periods</b>	<b>one, two <i>or</i> three years</b>	<b>16</b>
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<b>Payment Method:</b>	<b>Monthly payments, per-seat*, or per-server</b>	<b>22</b>
	(* in arrears)	



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## I. PURPOSE

Through this Request For Proposals (RFP) 2000-15 for the Virginia Department of Information Technology (DIT) is seeking offers from vendors capable of supplying **Seat Management Services (SMS) for the Commonwealth of Virginia**, as identified in this RFP. SMS is an alternative to the traditional purchase method of acquiring Information Technology desktop and enterprise computing assets and related services, historically performed by in-house Information Technology (IT)/Management Information Systems (MIS) staff. Evaluation of proposals received will result in up to three (3) statewide **Master Contracts**, which are for Indefinite Delivery, Indefinite Quantity requirements.

## II. SCOPE OF WORK

Seat Management Services (SMS) will afford the *Commonwealth's* agencies<sup>1</sup> with an alternative method of acquiring IT computing services. Instead of the traditional method of purchasing IT assets and performing related services (via in-house IT/MIS staff) to support general purpose, educational & student, and scientific & engineering environments. Under the Seat Management concept, the *Commonwealth* will acquire, from IT vendors, the required vendor-owned assets and related integrated Services, on a monthly priced, per-seat or per-server basis, to include:

- Desktop, portable and server type computers for general business and scientific & engineering classifications
- Operating System, and other related driver software and licenses
- Implementation Planning and Acquisition Services
- Installation and related Services
- Training
- Maintenance and Support Services
- Management, Inventory and Disposal Services

Offeror, by signing and submitting his firm's proposal response, represents that the offeror's firm has reviewed the *Commonwealth's* requirements and that it is an expert in Seat Management Services. The *Commonwealth* is selectively outsourcing its SMS responsibilities to the contractor(s) and relying on the contractor to provide Information Technology capabilities at the performance levels required, as set forth in this RFP. Subject to the Terms and Conditions contained herein, Offeror agrees to furnish SMS to the *Commonwealth's* agencies and to comply with Service Levels, as set forth in this RFP, in accordance with the resulting Agreement. All Attachments to this RFP are incorporated by reference into this Agreement and for all purposes are recited as if in their entirety.

<sup>1</sup>**Agency(agencies)** – An agency is defined as any agency, institution of higher education (including the institution's respective students), locality or political subdivision (counties, cities, towns, boroughs and others as stated in the *Code of Virginia*, Section 8.01-385(3) iii.), local school divisions (under the authority of the Virginia Board of Education, and all schools under the supervision of the Virginia school boards constituted under Title 22.1 of the *Code of Virginia*) or other public body of the *Commonwealth*, (as defined in the *Code of Virginia*), authorized to place orders against this Master Contract(s).

### III. PROPOSAL ADMINISTRATIVE PROCEDURES

#### 1. SUB-CONTRACTORS:

The Contractor is permitted to establish a contracting team that includes sub-Contractors if, in the Contractor's opinion, sub-Contractor services are helpful in delivering a technically complete response. **THE OFFEROR MUST CONFORM TO ALL MANDATORY TERMS AND CONDITIONS RELATING TO THE USE OF SUB-CONTRACTORS AS SET FORTH IN SECTION XII OF THIS RFP.**

#### 2. MULTIPLE PROPOSALS:

An offeror may submit one or more proposals. At least one of the proposals must be complete and must comply with all of the instructions of this RFP. Additional proposals may be in an abbreviated form following the same format and providing only the information that is different from that in the complete version.

#### 3. MANDATORY AND DESIRABLE CONTRACTUAL TERMS AND CONDITIONS:

This RFP, and the response submitted by the successful offeror, shall be incorporated into the Master Contract signed by each offeror and the *Commonwealth of Virginia*. Price quotations and other time dependent information contained in proposals shall be valid for a minimum of 180 days from the closing date. If a proposal contains items or services which are not manufactured, generally supplied, or maintained by the proposing vendor, the offeror must provide the *Commonwealth* with written assurance that the offeror will accept full responsibility for the product and services as if it were the offeror's own. The *Commonwealth* will contract only with the prime offeror who will be responsible for the performance of and payment to any sub-Contractor(s).

The Contractual Terms and Conditions, located in Sections XI and XII contain both "Desirable" and "Mandatory" terms and conditions.

MANDATORY Terms and Conditions are those that the offeror must accept verbatim for inclusion in any resulting contract in order to qualify to respond to this solicitation. FAILURE TO AGREE TO THE MANDATORY TERMS AND CONDITIONS SHALL ELIMINATE THE OFFEROR'S PROPOSAL FROM FURTHER CONSIDERATION. THE OFFEROR SHALL INCLUDE IN ITS PROPOSAL A STATEMENT CONFIRMING ACCEPTANCE OF THE MANDATORY TERMS AND CONDITIONS LISTED IN SECTION XII.

DESIRABLE Terms and Conditions are conditions highly desirable by the *Commonwealth* but may be negotiated prior to award of any contract.

The *Commonwealth* anticipates the possible inclusion of additional terms and conditions as may be applicable to any Service/s e.g. Student Service, not specifically identified herein. Any additional terms and conditions will be added to the Agreement solely at the *Commonwealth's* discretion during negotiations.

**4. REJECTION OF PROPOSALS:**

The Department of Information Technology reserves the right to reject any and all proposals, in whole or in part. DIT shall not cancel a Request for Proposals or reject any proposal solely to avoid awarding a contract to a particular responsive and responsible Offeror. In addition, DIT reserves the right to waive informalities and to delete items prior to award.

**5. REGISTERED VENDORS:**

PROPOSALS WILL NOT BE CONSIDERED IF THE OFFEROR IS NOT REGISTERED WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY. A completed registration form must be on file or received by DIT (Acquisition Services Division) not later than the award date. Call (804) 371-5900 to request a registration form or check ASD's Web Page at <http://asd.state.va.us> to download the form.

**6. IDENTIFICATION OF PROPOSALS:**

All proposals submitted for consideration shall be clearly marked on the outside cover of all envelopes, boxes or packages:

From:           Name of Offeror  
                  Street or P.O. Box Number  
                  City, State, Zip Code  
                  Due Date: **April 12, 2000**  
                  Time: Not Later Than (NLT) 2:00 P.M. Local Time  
                  RFP Number 2000-15

**7. "MANDATORY" AND "DESIRABLE" REQUIREMENTS DEFINED:**

All mandatory requirements must be met in order for any proposal to be considered. The offeror must respond to the mandatory requirements by identifying if he or she can fulfill the requirements identified therein and how the offeror proposes to meet the requirements. Substantiation of responses must be provided. The *Commonwealth* has established guidelines for Offerors governing the interpretation of RFP requirements. The use of "shall", "must", or "will" in this RFP or its official amendments indicates a requirement or condition that is *mandatory (mandatory requirement)*, and shall not be construed in any way as allowing deviation from any requirement. Deviation from mandatory requirements will not be accepted by the *Commonwealth*. The *Commonwealth of Virginia* reserves the right to reject any and all proposals and to waive minor informalities.

Words such as “desirable”, “should”, “is requested”, “is urged to”, are likewise important to DIT in selecting a offeror, but in order to permit offerors to meet DIT’s requirements creatively, they are not specified as strictly as mandatory requirements. Vendor responses to features identified as desirable should meet stated goals, objectives, or performance characteristics. However, failure of a proposal to meet desirable features is not disqualifying. Proposals that provide more of the desirable features or that meet them more effectively than another proposal will be given stronger consideration in selecting a vendor. Offerors must document that they can meet mandatory requirements of the RFP and should document the extent to which they can meet the desirable or optional requirements.

**8. EXECUTIVE BRIEFING:**

The *Commonwealth* expects to request offerors to provide a brief overview of their proposal, as an Executive Briefing, shortly after proposals are due. The Executive Briefing will be limited to not more than one (1) hour and will be scheduled at a site and time selected by the Commonwealth. Only offerors that agree to all mandatory requirements of the solicitation will be invited to participate and the briefing will be open only to *Commonwealth* personnel. The Executive Briefing will not be a substitute for Vendor Presentations that take place during the Evaluation Process.

**9. EVALUATION PROCESS:**

Proposals are evaluated on the basis of the criteria enumerated in the RFP and are scored in accordance with a weighting scheme established and approved prior to the opening of any proposals.

The *Commonwealth* is not required to furnish a statement of the reasons why a particular proposal was not the most advantageous. Should the Issuing Office determine in writing, and in its sole discretion, that certain offerors are clearly more highly qualified than others under consideration, contracts may be negotiated and awarded to those offerors.

The proposal evaluation process involves, first, the review by a Selection Committee of all proposals received in response to the RFP to ensure that each proposal meets the mandatory requirements. Offerors may be asked for clarifications to determine whether the submitted proposal meets the mandatory requirements. Proposals that have been determined by the Selection Committee to have not met one or more mandatory requirements are excluded from any further consideration, subject to approval by the Review Committee.

The second process in the evaluation of proposals involves each Selection Committee member evaluating the offeror's technical proposal and assigning a score to each of the selection criteria based on his/her personal understanding or interpretation of each of the proposed items. It will be decided at the beginning of the process how scores are to be assigned to each of the criteria (such as from zero to ten, with five as average). The full Selection Committee will then meet to discuss the scoring. Members may change their scoring, if they desire. Preliminary scoring may also be changed by committee members after oral presentations or demonstrations. Final scores are then totaled and multiplied by the weights assigned to arrive at a cumulative technical score. The offeror's cost proposal will be opened at this point by the Selection Committee. The proposed costs will be

evaluated using the formula below. The technical and cost proposals will then be summed to provide a ranked list of offerors. Negotiations will then be conducted with the top ranked offeror(s). At the conclusion of these negotiations, the results will be reported back to the full selection committee and the members will have the opportunity to adjust their technical scores to reflect the outcome of the negotiations. Offerors may be requested to provide revised pricing for their proposals, as amended during negotiation. If revised prices are submitted, the cost score will be re-computed; scores for the other evaluation criteria MAY NOT BE ALTERED. The lowest price received is the basis for the application of the cost scoring formula.

The cost scoring formula for evaluating proposals is:

$$\text{Cost factor} = (LV/V)$$

Where: LV = lowest cost offeror (\$)

V = offeror being evaluated (\$)

Cost score = cost factor x points available for cost

Final scores are then computed for purposes of ranking, and the offeror(s) having the highest total score(s) is selected for award. DIT will then enter into negotiations of Terms and Conditions and any pricing issues with the selected offeror(s).

#### **10. EVALUATION CRITERIA:**

1. Qualifications of the offeror's staff that will be assigned to this project.
2. Offeror's ability and willingness to tailor Services to the specific needs and/or desires expressed in this RFP.
3. Demonstrated level of offeror's comprehension of project, and offeror's responsiveness to the project as envisioned by DIT.
4. Offeror's experience in offering similar Services to clients in an environment that is comparable to COV's agencies and public bodies.
5. Offeror's experience in offering similar services to clients in an educational environment, including students, similar to COV's institutions of higher education.
6. Quality standards applied to, and content of, the proposed Services, products and work plan.
7. Cost of all Services proposed, evaluated by formula application.
8. Participation of small businesses and businesses owned by women and minorities.
9. Completeness of maintenance program, qualifications of service and support personnel (verified by resumes), response times and escalation procedures proposed.
10. Enterprise services experience.
11. Offeror's Financial Stability

**11. CONTRACT NEGOTIATIONS:**

After selection for negotiation by the Selection Committee, DIT will negotiate with the selected offeror(s) to establish a contract containing mutually agreeable terms and conditions. Award of this procurement action is dependent upon the signing of a mutually acceptable contract by both parties to each contract. At any time during negotiations, should the parties fail to agree upon a contract, the Commonwealth, at its sole discretion, will cancel negotiations with the first selected offeror(s) and proceed with the next acceptable offeror(s).

**12. REVIEW PROCESS:**

A Review Committee appointed by the Director, ASD, consisting of members who do not have a direct involvement in the selection process, will review the selection process to ensure that the selection was fair and unbiased.

**13. POST AWARD REVIEW:**

Following the selection and formal notification of the winning offeror, the Director, Acquisition Services Division, or his designated representative, will review the selection with participating offerors on an appointment basis. Offerors desiring to review the selection process must do so within 10 days after Notification of Intent to Award is posted.

**14. NEWS RELEASES:**

No public disclosure or news release pertaining to this procurement shall be made without prior written approval of the Issuing Office. **FAILURE TO COMPLY WITH THIS PROVISION MAY RESULT IN THE OFFEROR BEING DISQUALIFIED.**

**15. COMMUNICATIONS BETWEEN OFFERORS AND THE COMMONWEALTH OF VIRGINIA:**

- a. All communications and requests for information concerning the RFP between potential offerors and the *Commonwealth* must be addressed in writing to the Issuing Office, other than during the Pre-proposal Conference. Refer to paragraph 6, Page 11.
- b. Offerors are advised that initiation of communications concerning this procurement with any *Commonwealth* agency or employee, other than as provided for in this RFP, is prohibited.
- c. Violation of this requirement may be grounds for disqualification.
- d. All individuals with the *Commonwealth* have been advised that no such communication is allowed.

## IV. BACKGROUND

### A. Commonwealth of Virginia (COV)

The currently installed base of COV owned computing assets has been estimated by the Council on Technology Services (COTS) Seat Management Workgroup to contain 60,000 Personal Computer (PC) units statewide (not including student owned units). These PCs consist of various brands. They represent a significant investment for COV and the existing equipment may continue to be used to the extent of its useful life.

The equipment described above presents a significant challenge to the *Commonwealth* both in terms of manpower and overall cost for technical support. Currently, individual agencies, institutions of higher education and public bodies are responsible for purchasing their own computing hardware, software and support. This support consists of all aspects of IT computing operations; procurement, unpacking, installation and setup, software loading and configuration, delivery to the user's desk, local area network (LAN) Server setup and configuration, and troubleshooting and problem solving on an ongoing basis, and finally, disposal<sup>1</sup>.

DIT plans to continue and expand the use of enterprise computing technology in the future. To prepare for upcoming information technology changes, ensure consistency of computing equipment, and provide equity in its distribution throughout the COV, DIT has adopted a set of SMS Standards (see Appendix "1") that cover hardware, software and services.

While the requirements for supporting the *Commonwealth's* installed base of computer equipment are increasing, the staff needed to handle this task has not kept pace. While COV staff will continue to maintain its current front line, first response support staff, the COV intends to use the resources provided by Contractors to enhance its ability to supply the level of technical support needed by the agencies end users.

<sup>1</sup>COV owned equipment must be disposed of in accordance with procedures contained in the Agency Procurement and Surplus Property Manual (APSPM), published by the Department of General Services under authority of Section 2.1-442 of the *Code of Virginia*.



## V. STATEMENT OF NEEDS

This section describes SMS that the agencies of the *Commonwealth* desire the vendor community to provide. The body of your firm's proposal response should closely follow this section. Please describe your proposed methodology for providing each individual service on a monthly priced per-seat and/or per-server basis.

1. The **Mandatory** requirements of this RFP are:

- A. ***Proposal Preparation and Submission Requirements*** herein
- B. ***SMS Standards***, as issued herein and as periodically updated by DIT
- C. ***Reporting and Deliverables*** as stated herein
- D. ***Mandatory Terms and Conditions*** as stated herein
- E. ***Removal of vendor assets*** as stated herein
- F. ***Other requirements*** as indicated by the use of the words "shall", "must" or "will", in the solicitation.

2. The following is a suggested set of Services that should be considered **desirable**.

Agencies will be allowed to contract for and utilize the SMS, configured for their respective environments.

The Seat Management Services for Information Technology listed in (a) through (g) below are general categories and should be used as a guide and starting point to develop a proposal, however additional Services in these and other categories may also be proposed.

- A. **PLANNING**
- B. **ACQUISITION**
- C. **INSTALLATION**
- D. **TRAINING**
- E. **SUPPORT**
- F. **MANAGEMENT**
- G. **DISPOSAL**

The Contractor should provide a menu of individual, monthly priced vendor-owned assets and related IT Services needed to implement SMS. The Contractor will remain the owner of all assets provided. The contract pricing requested herein is to be based, first, upon agency's selection of **Technology Refreshment Periods**<sup>1</sup> of 1, 2 or 3 years. Pricing is to be based upon combining tangible asset and intangible service offering costs, selected from the menu by the requesting agency, into a unique monthly, *per-seat* and/or *per-server* service price.

<sup>1</sup> **Technology Refreshment** – a process by which the initial level of proposed technology is updated or "refreshed" to reflect industry advancements over a period of time.

Services offered under the Master Contract(s) must be available at all locations throughout the State. Each agency location will have the option to choose from the list of SMS offered by up to three (3) Contractors at any given place and time. Once a Contractor is selected by an agency, it only makes good business sense to continue doing business with that Contractor. Therefore, agencies will choose carefully from among the three (3) qualified statewide SMS Contractors.

The IT assets and services provided by the vendor to COV must meet or exceed the SMS/COV Standards, which are identified in Appendix "1".

COV has an installed base of IT assets. The majority of equipment is still covered by some portion of an extended manufacturer's warranty. COV desires the vendor to assume responsibility for warranty repair of this hardware, and the installed software while an agency transitions to a SMS environment. The offeror should propose a transition plan that allows agencies to migrate from their respective existing environments to full implementation of the environments identified in the SMS.

The offeror should address his ability to provide hardware w/OS and related driver software, and Services to agencies on a multi-year contract basis, w/options to extend the period. COV desires to stay as up-to-date with PC hardware and OS software technologies as is practical and fiscally achievable. Offeror should include in the proposal Technology Refresh Periods of 1, 2 and 3 years for these IT assets.

The offeror should also provide a proposal for Technical Support Services. These services should include a facility for COV IT Professionals/MIS Staff to call for high-level support for hardware and software problem resolution, available only to designated IT/MIS Staff of any subscribing agency.

### **3. STATEWIDE TERRITORY**

DIT intends to award up to three (3) individual statewide Master Contracts for SMS.

### **4. AGENCY PROCEDURES**

Procedurally, an agency in a single location should be afforded with three Contractor choices from the SMS Master Contracts. The agency will conduct a Contractor Selection Process (CSP), which will consist of the following procedure:

- The agency will submit a Request for Quotation (RFQ) to the Contractor(s), which describes the agency's requirements and/or the Contractor menu selections. (Agencies may not require and a Contractor may not propose services not included in the Master Contract.)
- Any Contractor may be selected by the requesting agency, provided that the Contractor's proposal conforms to the agency's RFQ, the Terms and Conditions of the Master Contract, and is priced at or below the established firm/fixed Master Contract pricing.
- The agency then issues a written Delivery Order (DO) or Purchase Order (PO), referencing the Contractor's Master Contract, and incorporating the Contractor's proposal.

- Agency will not be allowed to order any services without committing to also obtaining desktop, portable or server PC configurations.
- Each subscribing user agency should provide the Contractor with a rolling forecast, updated on at least a 30-day basis. Units included in the forecast must be delivered within five calendar days of the forecast date (requested install date), provided such units were included in the previous month's forecast.
- Units not included in the forecast should be installed within 20 calendar days of receipt of order, unless a delayed delivery schedule is requested.

## **5. CATEGORIES OF SMS**

The offeror should plan to provide the SMS for the full term of the contract. SMS are to be separately priced as monthly per-seat and/or per-server service charges. SMS should encompass the following service categories, however additional categories may be proposed. Please describe your proposed methodology, in detail, for providing each proposed Service. Desirable SMS categories are as follows:

**A. PLANNING** – Services in this category should include but not be limited to:

1. Implementation planning for transition to SMS.
2. Configuration management.
3. Scheduling.
4. Backup and transfer of existing data.
5. Participating Seat inventory.
6. Asset Inventory
7. Capacity planning

**B. ACQUISITION** – Services in this category should include but not be limited to:

1. Platform Hardware: server, desktop and portable computers, and
2. Platform Hardware components: (NIC cards, PC Cards, etc), and
3. Platform Software components: Operating System and other software (drivers, etc.).

**C. INSTALLATION** – Services in this category should include but not be limited to:

1. Staging of computers prior to installation
2. Pre-installation / On-site installation of both Contractor's and COV's hardware and software.
3. Install the hardware, with pre-configured COV software pre-installed, on the user's desk.
4. Installation must occur within five days of receipt of order for forecast items and within 20 calendar days from receipt of order for non-forecast items, unless a delayed delivery or staged delivery schedule is requested.
5. Installation should also include: configuring the computer to the user's printer or print facilities, verifying modem operation, and verifying connections to any Local Area Network and/or mainframe/minicomputer system at the user's desk, and/or any remote access service.

6. A “check list” of items to be verified at the time of installation will be provided by agency. (Please provide a suggested example of an *Installation Check List*, with the RFP response).

**D. TRAINING** – Services in this category should include but not be limited to:

1. End user training in a classroom environment;
2. IT Technical staff training (including training the trainer);
3. Customized training material for SMS specific applications;
4. Provide classroom instructor for COV training facility.
5. Contractor should provide user orientation at the time of installation to explain in general how the computer hardware and software are set up.
6. Contractor should provide administrator orientation and training for servers.

**E. SUPPORT** - Services in this category should include Maintenance and Support Services, but not be limited to:

1. Take-over of remaining warranty
2. H/W Break-Fix;
3. S/W bug fix;
4. Help Desk; Server Administrator and IT/MIS Support. (no end-user support)
5. Other service professionals for staff augmentation, to include, but not be limited to hardware, software, and networking areas of expertise.
6. Provide a schedule of Time and/or Material rates (T&M) for incidental charges related to SMS.

**F. MANAGEMENT** – Services in this category should include but not be limited to:

1. Inventory management of IT assets (both Contractor’s and agency’s),
2. MACs (moves, additions, changes (hardware upgrades, software upgrades, etc.)).
3. Technology Refreshments of 1, 2 and/or 3 year agency selection periods.
4. Server Management: Backup/Restore, Disaster Recovery, Server and Client Administration, Software license inventory and update.

**G. DISPOSAL** – Services in this category should include but not be limited to:

1. Disposal of displaced vendor assets.
2. COV owned surplus, hardware and software, due to replacement or upgrades, in accordance with the *Agency Procurement and Surplus Property Manual*.
3. De-installation of equipment, due to termination, completion of term or refreshment, should occur within 15 days of the end of the period.

**6. TERM OF CONTRACT:**

The initial term of this contract shall be for a period of 3 years. Thereafter it will be renewed on a yearly basis, at the COV’s option, not to exceed 4 renewal periods.

**7. INSURANCE OF ASSETS:**

- a. Contractors are advised that COV assumes no financial responsibility or liability for assets provided under this agreement, prior to acceptance by agency.
- b. Subsequent to agency acceptance, the *Commonwealth* will self-insure all equipment and software acquired from this agreement for theft, fire or other losses, while located on COV premises, or off-premises while under the control of authorized COV employees.

**8. VENDOR ASSET PRICING:**

- a. The monthly per-seat and/or per-server service charges for Seat Management Services includes everything in the SMS Standards provided by the Virginia Department of Information Technology. These are the minimum standards that will be accepted. The monthly per-seat and/or per-server service charges must include all of the items listed below:

- 1. Installation/de-installation including transfer of any existing data files
- 2. Service Level (SL1 or SL2) of maintenance, as specified by agency
- 3. Appropriate patch cord from LAN wall jack to PC NIC(s)
- 4. 6 outlet surge protector
- 5. Escalation management on trouble calls.
- 6. Order entry and tracking system
- 7. Software Image (OS and drivers library)
- 8. Meet mutually agreeable order/set-up schedule on new units or add-ons
- 9. User orientation on new units or add-ons
- 10. Multiple user/client configuration selections for load at factory
- 11. All support Services for software listed in standards
- 12. Patches to existing software
- 13. Asset Management Program and reporting
- 14. Removal/Disposal (either Contractor or COV owned assets)
- 15. Supplier Presentations
- 16. Staging of Inventory prior to order or delivery
- 17. Monthly Billing
- 18. Catalog / Menu of Services, Web published, with periodic price updates

- b. **SMS User/Client Configurations** may be ordered in any of the following configurations. (These PC configurations do not include *application* software). PC Classifications are:

**D** = (desktop)

and

**P** = (portable notebook or laptop).

User/client performance levels/configurations are as follows:

**G** = **General Business User** PC that conforms to SMS Standards with the following:

- Windows 98

and

**W** = **Scientific & Engineering Workstation User** PC that conforms to SMS Standards with the following:

- Windows 2000

Four (4) individual user/client configurations are possible, two (2) desktops and two (2) portables, (with upgrades and options as individually specified):

**DG, DW and PG, PW.**

- c. **SMS Server Configuration** may be ordered in the following configuration. (This Server configuration does not include *application* software). Server Classification is:

**S** = (server), that conforms to SMS Standards, with the following:

- Windows 2000 Advanced Server; server and 25 client licenses
- Upgrades and options as individually specified, if any

- d. The **Pricing Schedule Model** found in Section VI is provided to allow offerors to communicate the proposed prices. (If any separate, line item price is already included in any other proposed service charges per-seat for desktops or portables, and/or per-server, you must clearly identify that in your proposal.)
- e. Price increases/decreases for labor costs may be allowed on an annual basis, in accordance with the Consumer Price Index for Wages, as described in the Terms and Conditions.
- f. Price changes may be allowed due to manufacturer product changes and Contractor requested substitutions caused by product obsolescence, and when refreshment equipment and software is provided, and for other reasons based on negotiations with appropriate DIT personnel, as designated by the Contracts Manager, DIT. Tangible asset price adjustments will be in accordance with a formula set forth in the Pricing Schedule Model.
- g. The offeror should agree, and propose prices to:
- Transfer existing user/server data (preferable to make a CD disk image of the drive prior to transfer) and/or install nonstandard software, or
  - Not Transfer existing user/server data and/or install nonstandard software, at the discretion of the agency, and
  - Support or Not Support non-standard software, as requested by agency

- h. COV proposes an agency *minimum initial order quantity (commitment)* of 50 units and a *maximum initial order quantity* of 1000 units for all services. Offeror may propose pricing based upon these or other specified quantities.

**9. SOFTWARE:**

- a. Contractors must supply the designated OS and all appropriate drivers for each PC or Server.
- b. Application software will be provided by COV, on a master or 'gold' CD-ROM disc, or multiple discs, for loading on each individually configured PC. The disk may contain either disk images or installation "packages" or scripts. The offeror should address any "no-cost" assistance they are willing to provide in the creation of these CDs.
- c. The offeror should include in the proposal an explanation of how COV software licenses should be managed and inventoried under this contract and address any other issues of software image ("Gold" CD-ROM) installation.
- d. The Contractor may be considered a "Select Outsourcer" by Microsoft, since they are engaged by the *Commonwealth's* agency to manage some portion of the *Commonwealth's* information and data systems assets that include Microsoft Select Software Products. The Contractor may be required to sign and submit such forms as Microsoft may require of such vendors. Other software providers for which the Commonwealth has "site", or "enterprise" license agreements may have similar requirements.

**10. SERVICE LEVEL / SATISFACTION LEVEL MEASUREMENT:**

- a. A method for measuring both the service level and user/client satisfaction level for each applicable service should be proposed, including regular interval reporting to DIT and user agencies.
- b. Responses to this RFP should include discussion of the offerors approach to providing and measuring these levels of service and satisfaction on a statewide basis.

**11. SMS FEE EVALUATION:**

- a. Offeror should propose a method to evaluate and reduce fees, or increase technology/service offerings without increasing fees, as quantities, economies of scale and contractual efficiencies improve.
- b. COV suggests a cumulative discount structure, with break points per quantities of 500 units, i.e. when COV installed seats/servers attain cumulative quantities of 500, 1000, 1500, 2000, 2500, and 3000 units, etc.

**12. PAYMENT METHOD:**

Contractor shall submit an itemized invoice to the applicable agency monthly, in arrears, for services rendered.

**13. TERMINATION/RESIDUAL VALUE:**

The contract may be terminated, as defined in the Terms and Conditions.

A method for the calculation of the residual value of vendor assets should be proposed, for use in instances of breach by either party.

**14. DISADVANTAGED AREAS OF THE COMMONWEALTH:**

The offeror should indicate any positive effects the contract will have on areas of the *Commonwealth* designated as disadvantaged areas.



## VI. PRICING SCHEDULE MODEL

### *Commonwealth of Virginia*

### RFP 2000-015

**Pricing Schedule:** Offerors must submit all pricing within a Microsoft Excel spreadsheet file contained on the CD-ROM RFP response disc. Use the format supplied on the next page to communicate proposed monthly priced per-seat and/or per-server service charges and other firm/fixed prices.

Any pricing differential(s) for user/client categories, if any, shall also be clearly identified (i.e., educational (student), administrative, academic (local school districts), instructional (classroom), etc.). In case of participation by student(s) of institution(s), a separate unique set of Terms and Conditions will be negotiated by COV, however COV will not be a party to any student contracts. Student contracts will be between the Contractor and individual students only.

Please price and discuss any and all Services proposed. ALL PRICES SHOWN FOR SMS MUST BE FIRM/FIXED PRICES. At no time during this agreement will a Contractor be allowed to exceed the prices offered in the RFP response, except as provided herein. Additionally, all monthly per-seat and/or per-server service prices quoted are to be broken down into two (2) cost components, *Tangible* (hardware or other fixed asset costs) and *Intangible* (travel, service & labor costs, finance charges, etc.), whenever applicable.

DIT will use the firm/fixed prices in the following manner. Tangible hardware prices for PC configurations shall be verifiable at the computer manufacturer's web site, from the manufacturer's published government (or educational, in the case of students) purchase prices for the models/components offered. DIT will use the published pricing to calculate a SMS Cost Ratio (CR)<sup>1</sup>.

The CR will be determined by first calculating a contract dollar amount (CDA) equal to the Refresh period in months, multiplied by the monthly per-seat and/or per-server service price offered, for each minimum SMS Standard configuration (w/o options/upgrades). The CR is then calculated by dividing the CDA by the manufacturer's current published government purchase price (MPP). (Figures rounded to the nearest whole dollar.)

All subsequent *Tangible* cost component changes will be governed by this ratio for the life of the Master Contract. Any new prices charged for product replacements, whether caused by manufacturer price changes, fee evaluation, obsolescence, refreshment or changes in the SMS/COV Standards, shall maintain the CR established by the original CR calculation described above. The Tangible cost component prices and CR may also be used in any buyout calculations made or negotiated pursuant to the contract Terms and Conditions.

**1 Example CR calculation:**

Tangible cost component monthly price offered for configuration DG, with 36 month Refresh, SL1, is \$41.66.

CDA= 36 mo. x \$41.66 = \$1499.76.

The manufacturer's published government purchase price, for the same model, is \$1349.

Therefore, (using rounded figures), CR = \$1500 / \$1349 = 1.11. (CR = CDA / MPP).

1.11 shall be the CR, for configuration DG, and shall be maintained for the life of the contract.

**Commonwealth of Virginia****FIRM NAME****RFP 2000-015 SMS Pricing Schedule - include all costs associated with all categories (...examples shown below...)****ALL PRICING shall be broken down into Tangible and Intangible components.(T + I)****CATEGORIES****ACQUISITION****1**

Platform Hardware - minimum configurations (list options/upgrades seperately)

**Monthly priced service charge, per-seat/server, for vendor assets, by Technology Refreshment Period and Service Level:**

<b><u>SL1</u></b>	<b><u>DG</u></b>	<b><u>DW</u></b>	<b><u>PG</u></b>	<b><u>PW</u></b>	<b><u>S</u></b>
1 yr. Refresh	(tangible + intangible)	T + I	T + I	T + I	T + I
2 yr. Refresh	T + I	T + I	T + I	T + I	T + I
3 yr. Refresh	T + I	T + I	T + I	T + I	T + I

<b><u>SL2</u></b>	<b><u>DG</u></b>	<b><u>DW</u></b>	<b><u>PG</u></b>	<b><u>PW</u></b>	<b><u>S</u></b>
1 yr. Refresh	(tangible + intangible)	T + I	T + I	T + I	T + I
2 yr. Refresh	T + I	T + I	T + I	T + I	T + I
3 yr. Refresh	T + I	T + I	T + I	T + I	T + I

**PLANNING****INSTALLATION****TRAINING****SUPPORT****MANAGEMENT****2**

MACs (beyond 1 per seat/server per year)

move w/in bldg.  
 move w/in/campus  
 Qty. Disc.  
 H/W upgrade  
 S/W upgrade

**DISPOSAL**

## VII. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

### A. GENERAL REQUIREMENTS:

#### 1. RFP Response:

To be considered for selection, offeror must submit a complete response to this RFP. One (1) original and ten (10) copies of each proposal shall be submitted to DIT. No other distribution of this proposal shall be made by the offeror.

**Only electronic responses submitted on CD-ROM, (in MS Word and/or Adobe .pdf, and MS Excel formats, are acceptable).**

**The original proposal must consist of a CD-ROM disc containing the required RFP response files, and a single signed original RFP 2000-15 front page. The ten (10) copies need only be CD-ROM discs, all discs appropriately labeled, and all contained in a sealed envelope, appropriately labeled with the firm name and "RFP 2000-15 Response".**

**Files located on the CD should be organized and named so as to allow easy access to specific parts of the offeror submission by the evaluation team**

**Hard copy proposal submissions will *NOT* be accepted.**

#### 2. Proposal Preparation:

- a. The original proposal front page shall be signed by an authorized representative of the offeror. Failure to submit all information requested may result in DIT requiring prompt submission of missing information, and/or the proposal may be given a lowered evaluation. Also, proposals that are substantially incomplete, or lack key information may be rejected by DIT. Proposals received after the due date will not be considered.
- b. All information requested by this RFP on the ownership, utilization and planned involvement of small businesses, women owned businesses, and minority owned businesses must be included with the proposal.
- c. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to provide Services addressed in the Statement of Needs. Emphasis should be placed on completeness and clarity, with added emphasis on brevity of content.

- d. No proposal or modifications to a proposal will be accepted after the closing date and time. Offerors may use any means of delivery however, it is the responsibility of the offeror to allow adequate time for delivery to DIT's Acquisition Services Division, at the address shown on page 1 of this solicitation. Proposals and modifications received after closing will be returned unopened.
- e. **The original and each copy of the proposal must be submitted on CD-ROM media.** All original proposal papers, documentation, specification sheets, manufacturers statements and correspondence, etc. must be submitted with the proposal and should be saved in, or scanned and converted to, MS Word format (or Adobe .pdf format).
- f. **Pricing must be submitted in a separate MS Excel format file, conforming to the Pricing Schedule Model in the Appendices, and contained on a separate CD-ROM (One CD Required) clearly marked Pricing Schedule Model. The pricing model should not be contained on every CD copy.**
- g. All files are to be contained on the CD-ROM discs submitted. Proposals should be organized in the same order as the RFP and must be page numbered and dated. The proposal should contain a Table of Contents, which cross references the RFP page numbers and the specific page of the response in your proposal. Proposals that are not organized in this manner may be eliminated from consideration for failing to specifically address the technical and contractual requirements.
- h. Proprietary Information: SECTION 11-52 D, Virginia Public Procurement Act, states "Trade secrets or proprietary information submitted by a bidder, vendor or Contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, vendor, or Contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary". All identifications must be specific and all reasons must be stated in detail. FAILURE TO MARK THE DATA OR OTHER MATERIALS AS STATED WILL RESULT IN THE DATA OR OTHER MATERIALS BEING RELEASED TO VENDORS OR THE PUBLIC AS PROVIDED IN THE VIRGINIA FREEDOM OF INFORMATION ACT.
- i. The primary (prime) offeror must identify a contact person who will be responsible for coordinating the efforts and personnel of all parties and/or sub-Contractors involved in the response to this solicitation. The offeror response shall include, but not be limited to, oral presentations, interviews, and responses to clarifications, if any, and must provide the following:
- Name:
- Organization:
- Address:
- (Area Code): Telephone Number:
- Fax Number:
- E-mail:

- j. All costs to prepare and submit a response to this solicitation shall be borne by the offeror. In addition, The Commonwealth shall not be obligated or liable for any cost incurred by a offeror prior to issuance of a contract.
- k. Procurement Policies and Procedures: Data processing procurement activity conducted by the *Commonwealth of Virginia* is governed by provisions of the Virginia Public Procurement Act and guided by provisions of the *Commonwealth of Virginia Vendor's Manual*, dated December 1998. The provision(s) of this RFP are intended to conform to applicable policies and procedures contained in the aforementioned Manual. In the event that a offeror should perceive a provision of this RFP to be at variance with the provisions of the Manual, Offerors are directed to regard the RFP provision(s) as prevailing.
- l. The Commonwealth of Virginia reserves the right to reject any and all proposals received in response to this request.

### 3. Oral Presentation:

Offerors who submit a proposal in response to this RFP may be required to give an oral presentation, which may include an equipment/service demonstration of their proposal to DIT, within 5 days of request by DIT. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. DIT will schedule the time and location of these presentations. Oral presentations are an option of DIT and may or may not be conducted.

## B. SPECIFIC PROPOSAL RESPONSE REQUIREMENTS

### 1. Vendor background informational materials:

- A. Vendor Operating Organization - Provide an overview of the operating structure and geographical locations of the firm at the national, regional, and local levels.
- B. Standards - Include information regarding your firm's utilization of widely known Industry Standards and guidelines, as they apply to your firm, your firm's proposal and proposed hardware assets.
- C. Company Contact(s) - Provide the name, title, street address, city, state, zip code, telephone and fax numbers and e-mail of the primary company's contact person, and for any sub-Contractors.
- D. Corporate Financial Status

- 1. For publicly held companies, offerors must provide a copy of their firm's (information systems division or corporation only, if consolidated statements are published) audited financial statements from the most recent fiscal year, and the preceding two fiscal years; must provide their Dun and Bradstreet credit rating number, and must provide their Moody's Investment Service Bond Rating and/or Standard & Poors Bond Rating if they have publicly held debt.

2. For privately held companies, offerors must provide a copy of audited financial statements for the most recent and the preceding two fiscal years, or other indicators of financial stability.
3. Indicate the percentage of total annual revenue that the proposed service generated for the most recent and the preceding two fiscal years.

**2. Vendor Statement of Compliance:**

The proposing vendor must certify that they will comply with the SMS Standards listed in the Appendices to this RFP and will conform to all future revisions to those documents.

**3. Client References:**

A. Identify any clients, for whom the firm has provided the same or similar Services. This information must include the name and location of the customer site and identify a contact person and telephone number. Use the *Client Reference Form*, in the Appendices.

B. Identify any additional clients for whom the firm has proposed or otherwise offered to provide similar Services, but was not successful in obtaining a contract. Use the vendor *Client Reference Form*, in the Appendices.

**4. Vendor Comments:**

This section exists to provide the offeror with an opportunity to describe how this project coincides with the offeror's capabilities, how the project is viewed, or other relevant comments that the offeror wishes to have considered in the selection process.

**5. Thoroughness of Proposals:**

Proposals should be as thorough and detailed as possible so that DIT may properly evaluate the offeror's capabilities to provide the requested Services. Offerors are required to submit the following items as a complete proposal:

- A. The return of this RFP shall consist of addenda (if any), the proposal on CD-ROM media (an original and 10 copies) in MS Word, Adobe PDF and MS Excel file formats, accompanied by a signed and filled out Proposal 2000-15 front page.
- B. An electronic file consisting of a written narrative statement to include:
  1. Description of similar work that has been performed, specifically pertaining to the Services requested in this RFP.
  2. work plan or work breakdown schedule.
  3. Organizational chart for primary Contractor and all sub-Contractors.

4. List of all personnel to be assigned to this project, by employer, identifying their qualifications to perform tasks/functions to be assigned.
  - a. Use the *COV Qualifications Form*, found in the Appendices, for all personnel.
  - b. identify key personnel, by employer (include sub-Contractor(s)), and provide contact information.

## VIII. REPORTING AND DELIVERABLES

### 1. INVENTORY REPORT:

- a. Beginning with the delivery of services to any agency, the Contractor shall provide a searchable inventory report, in data base format on a CD-ROM disc to the DIT Contracts Manager. In addition, the Contractor shall provide this information, at no additional charge, on CD(s) to each of his customer agencies that request the information. The report shall describe each desktop, portable and server computer configuration installed by the Contractor, by Agency, Brand Name, SMS Configuration (DG, PW, etc.) Manufacturer, Model #, and Serial #. The report should also show the specific location of the computer within an individual agency, by employee (or student) the computer is assigned to, and identify all software installed by the Contractor on each computer. A unique serial number or tag number should be used to physically identify each computer. This report should be issued/updated at a minimum of once a month.
- b. If any agency uses the contract(s) to inventory existing equipment, the CD(s) provided to DIT shall contain these inventoried items and the data collected on each. The record must indicate that the items are "Customer Owned".
- c. Offerors must provide sample of reports with the RFP response.

### 2. MEETINGS:

Regular meetings with the DIT Contracts Manager or his designees, should be planned for, at a minimum of once per quarter. The purpose of these meetings is to discuss items of concern to both parties that relate to the SMS being provided. Refreshment issues, service level measurement and fee evaluations will be discussed and appropriately adjusted at these meetings. Individual agencies that are customers, may request meetings at their respective agency locations to discuss problems unique to the services provided by the Contractor. Such meetings will be at a mutually agreeable time. The Contractor may not agree to any change to a contractual service offering without taking steps to have the contract with the Commonwealth modified to reflect the new service offering and price.

### 4. SMALL BUSINESSES, WOMEN-OWNED BUSINESSES, AND MINORITY-OWNED BUSINESSES REPORT:

Report on actual involvement of small businesses, women owned businesses, and minority owned businesses in this contract.

### 5. INDUSTRIAL FUNDING ADJUSTMENT (IFA):

The Contractor shall be responsible for submitting quarterly payments to DIT in accordance with DIT's Industrial Funding Adjustment clause, which is identified in the The Commonwealth's Mandatory Terms and Conditions.



**6. PROCEDURES MANUAL:**

Within thirty days from the time of execution of an acceptable Master Contract, the Contractor shall provide the *Commonwealth* with an Administrative Procedures Manual (APM) subject to the Commonwealth's edit/approval. This APM will be distributed to all agencies of the Commonwealth via an electronic process and will govern the acquisition of all services obtained under the Master Contract.

## IX. SMALL, WOMEN-OWNED AND MINORITY BUSINESS PARTICIPATION

The offeror must submit the following three sets of data for small business, women-owned business and minority-owned business: ownership, utilization of small, women-owned, and minority-owned businesses for the most recent twelve (12) months, and planned involvement of small businesses, women-owned businesses and minority-owned businesses on procurement.

### 1. Participation by Small Businesses:

a) Offeror certifies that it ( ) is, ( ) is not a small business concern. For the purpose of this procurement, a small business is a concern, including its affiliates, which is not dominate in the field of operation in which it is contracting and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the United States Small Business Administration.

b) List small businesses with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent twelve-month period for which data are available. offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: FROM: \_\_\_\_\_ TO: \_\_\_\_\_

FIRM NAME, ADDRESS & PHONE NO	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLAR AMOUNTS	% TOTAL CO EXPENDITURE FOR GOODS & SERVICES
-------------------------------------	-------------------	-------------------------	-------------------	--

c) Describe the offeror's plans to involve small businesses in the performance of this contract either as part of a joint venture, as a partnership, as sub-Contractors or as suppliers. offerors are encouraged to provide additional information and expand upon the following format:

FIRM NAME, ADDRESS, & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLAR AMOUNTS	% OF TOTAL CONTRACT
---------------------------------------	-------------------	-------------------------	-------------------	------------------------

### 2. Participation by Businesses Owned by Women:

a) Offeror certifies that it ( ) is, ( ) is not, a women's business enterprise or women-owned business. For the purpose of this procurement, a women-owned business is a concern that is at least fifty-one percent owned by a woman or women who also control and operate it. In this context, "control" means exercising the power to make policy decisions, "operate" means being actively involved in the day-to-day management.

- b) List business owned by women with whom the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent twelve (12) month period for which data are available. offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: FROM:\_\_\_\_\_ TO:\_\_\_\_\_

FIRM NAME, ADDRESS & PHONE NO	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLAR AMOUNTS	% TOTAL CO EXPENDITURE FOR GOODS & SERVICES
-------------------------------------	-------------------	-------------------------	-------------------	--

- c) Describe the offeror's plans to involve businesses owned by women in the performance of this contract either as part of a joint venture, as a partnership, as sub-Contractors or as suppliers. offerors are encouraged to provide additional information and expand upon the following format:

FIRM NAME, ADDRESS, & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLARS	% OF TOTAL CONTRACT
---------------------------------------	-------------------	-------------------------	---------	------------------------

### **3. Participation by Businesses Owned by Minorities:**

- a) Offeror certifies that it ( ) is, ( ) is not, a minority business enterprise minority-owned business. For the purpose of this procurement, a minority-owned business is a concern that is at least fifty-one percent owned and controlled by one or more socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Blacks, Hispanic Americans, Asian Americans, American Indians, Eskimos, and Aleuts.
- b) List business owned by minorities with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent twelve (12) month period for which data are available. offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: FROM:\_\_\_\_\_ TO:\_\_\_\_\_

FIRM NAME, ADDRESS & PHONE NO	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLAR AMOUNTS	% TOTAL CO EXPENDITURE FOR GOODS & SERVICES
-------------------------------------	-------------------	-------------------------	-------------------	--

- b) Describe the offeror's plans to involve businesses owned by minorities in the performance of this contract either as part of a joint venture, as a partnership,

as sub-Contractors or as suppliers. offerors are encouraged to provide additional information and expand upon the following format:

FIRM NAME, ADDRESS, & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLARS	% OF TOTAL CONTRACT
---------------------------------------	-------------------	-------------------------	---------	------------------------

#### **D. Definition of Goods and Nonprofessional Services**

**Period** is the specified twelve (12) month period for which the information provided in this list is applicable and valid. The period will be specified as month and year.

**Firm Name, Address, and Phone Number** is the individual in the specified small business or minority-owned business or women-owned business with which the offeror has contracted or done business over the specified period or plans to involve on this contract, as applicable.

**Contact Person** is the name of the individual in the specified small business, women-owned business or minority-owned business who would have knowledge of the specified contracting and would be able to validate the information provided in this list.

**Type Goods or Services** is the specific goods or Services the offeror has contracted for from the specified small, women-owned or minority-owned business over the specified period of time or plans to use in the performance of this contract, as applicable. The offeror will asterisk (\*) those goods and Services that are in the offeror's primary business or industry.

**Dollar Amount** is the total amount (in thousands of dollars) the offeror has contracted for or has done business with the listed firm during the specified period or plans to use on this contract, as applicable.

**% Total Company Expenditures for Goods and Services** is calculated by dividing the dollar amount of business conducted or contracted for with the indicated firm over the specified period by the total expenditure of the offeror over the specified period for goods and Services.

**% of Total Contract** is calculated by dividing the estimated dollar planned for the indicated firm on this contract by the total offeror estimated price of this contract.

## **X. APPENDICES**

**Appendix 1 SEAT MANAGEMENT SERVICES COV STANDARDS (SMSCOV STANDARDS)**

**Appendix 2 COV QUALIFICATIONS FORM**

**Appendix 3 CLIENT REFERENCE FORM**

**APPENDIX "1" - SEAT MANAGEMENT SERVICES COV STANDARDS (SMSCOV STANDARDS)****PLATFORM HARDWARE:****DESKTOP *GENERAL BUSINESS USER (DG):***

Propose appropriate Intel Pentium III *or later* class PC designed by its manufacturer for *general business* performance level use. Operating System should be the latest available OS in Microsoft's current Windows 9X family, currently Windows 98, Second Edition. The following are suggested as minimum specifications:

- 750 mhz.
- 128MB RAM
- 100mhz Front Side Bus
- 13GB Hard Disk Drive (ATA-66)
- 40x CD-ROM Drive
- 15" Color LCD Panel Display, 8MB Video card
- Sound card and speakers
- choice of desktop, mini-desktop or mini-tower deskside case
- choice of 10/100 Ethernet or Token Ring NIC, w/ 8' patchcord
- all driver software

**THE ABOVE IS THE MINIMUM CONFIGURATION. BELOW ARE SUGGESTED OPTION AND UPGRADE CHOICES, WHICH ARE NOT MEANT TO BE ALL INCLUSIVE (PLEASE PROVIDE ALL AVAILABLE):**

- option/upgrade to 20GB hard disk drive
- option/upgrade to 56K V.90 modem
- option/upgrade memory in 64MB increments
- option/upgrade to 19" or 21" color display monitor or LCD

**SMSCOV STANDARDS (CONTINUED)****DESKTOP ENGINEERING AND SCIENTIFIC WORKSTATION USER (DW):**

Propose appropriate Intel Pentium III *or later* class PC designed by its manufacturer for *workstation* performance level use. Operating System should be the latest available OS in Microsoft's current Windows 2XXX family, currently Windows 2000. The following are suggested as minimum specifications:

- 800 mhz.
- 133mhz Front Side bus
- 256MB RAM (ECC or RDRM)
- 20GB Hard Disk Drive (ATA-66 or Ultra-wide SCSI)
- DVD-ROM Drive
- 15" Color LCD Panel Display, 32MB Video card
- Sound card and speakers w/subwoofer
- choice of desktop or mini/mid tower case
- choice of 10/100 Ethernet or Token Ring NIC, w/ 8' patchcord
- all driver software

**THE ABOVE IS THE MINIMUM CONFIGURATION. BELOW ARE SUGGESTED OPTION AND UPGRADE CHOICES, WHICH ARE NOT MEANT TO BE ALL INCLUSIVE (PLEASE PROVIDE ALL AVAILABLE):**

- option/upgrade to 30GB hard disk drive
- option/upgrade to DVD-CD-RW or CD-RW disk drive
- option/upgrade to 56K V.90 modem
- option/upgrade memory in 128MB increments
- option/upgrade to 19" or 21" color display monitor or LCD
- option/upgrade to trackball or graphics tablet

**SMS STANDARDS (CONTINUED)****PORTABLE GENERAL BUSINESS USER (PG):**

Propose appropriate Intel Pentium III *or later* class PC designed by its manufacturer for *general business* performance level use. Operating System should be the latest available OS in Microsoft's current Windows 9X family, currently Windows 98, Second Edition. The following are suggested as minimum specifications:

- 500 mhz
- 128MB RAM
- 8GB Hard Disk Drive
- 24x CD-ROM Drive
- 11" TFT SVGA LCD Panel Display, 4MB Video
- Sound: microphone and speakers
- PCMCIA slots
- Infra-red
- Li-ion battery and charger
- all driver software

**THE ABOVE IS THE MINIMUM CONFIGURATION. BELOW ARE SUGGESTED OPTION AND UPGRADE CHOICES, WHICH ARE NOT MEANT TO BE ALL INCLUSIVE (PLEASE PROVIDE ALL AVAILABLE):**

- Option/upgrade to 10/100 Ethernet or Token Ring PC CARD, w/ 8' patchcord
- option/upgrade to 20GB hard disk drive
- option/upgrade to 56K V.90 internal or PC CARD modem
- option/upgrade memory in 16MB increments
- option/upgrade to Port Replicator



**SMSCOV STANDARDS (CONTINUED)****PORTABLE ENGINEERING AND SCIENTIFIC WORKSTATION USER (PW):**

Propose appropriate Intel Pentium III *or later* class PC designed by its manufacturer for *workstation* performance level use. Operating System should be the latest available OS in Microsoft's current Windows 2XXX family, currently Windows 2000. The following are suggested as minimum specifications:

- 650 mhz.
- 128MB RAM
- 100mhz bus speed
- 18GB Hard Disk Drive
- DVD-ROM Drive
- 14" XGA TFT LCD Panel Display, 8MB Video card
- PCMCIA slots
- Infra-red
- Sound: microphone and speakers
- Li-ion battery and charger
- all driver software

**THE ABOVE IS THE MINIMUM CONFIGURATION. BELOW ARE SUGGESTED OPTION AND UPGRADE CHOICES, WHICH ARE NOT MEANT TO BE ALL INCLUSIVE (PLEASE PROVIDE ALL AVAILABLE):**

- Option/upgrade to 10/100 Ethernet or Token Ring PC CARD, w/ 8' patchcord
- option/upgrade to 30GB hard disk drive
- option/upgrade to DVD-CD-RW disk drive
- option/upgrade to 56K V.90 internal or PC CARD modem
- option/upgrade memory in 64MB increments
- option/upgrade to Port Replicator or Docking Station

**SMS STANDARDS (CONTINUED)*****SERVER(S):***

Propose appropriate Intel Pentium III Xeon class Server designed by its manufacturer for *server* performance level use. Operating System should be the latest available server OS in Microsoft's current Windows 2xxx family, currently Windows 2000 Advanced Server, along with 25 client licenses. The following are suggested as minimum specifications:

- 733 mhz.
- Full Tower chassis
- Dual processor capable
- 512MB ECC RAM
- 100GB (minimum) of Ultra2 SCSI RAID5 storage
- 20x CD-ROM Drive
- 15" XGA Display, 2MB Video card
- 10/100 Ethernet or Token Ring NIC, w/ 8' patchcord
- 35GB/70GB DLT Tape Drive
- UPS
- server management software
- all driver software

**THE ABOVE IS THE MINIMUM CONFIGURATION. BELOW ARE SUGGESTED OPTION AND UPGRADE CHOICES, WHICH ARE NOT MEANT TO BE ALL INCLUSIVE (PLEASE PROVIDE ALL AVAILABLE):**

- option/upgrade to add 35GB/70GB DLT Tape Drive
- option/upgrade to add - 10/100 Ethernet or Token Ring NIC, w/ 8' patchcord
- option/upgrade to add 56K V.90 internal or external modem
- option/upgrade to add memory in 128MB increments
- option/upgrade to rack mount chassis with rack

**SMSCOV STANDARDS (CONTINUED)****General Requirements:**

1. Up to two (2) brand families will be allowed, per proposal. Each brand family must include all of the SMSCOV Standard Configurations. All options and/or upgrades offered, while not required to be the same brand as the equipment, must be directly available from, and supported by, the manufacturer of the proposed brand of equipment.
2. The end-user agency may select either of the brands available from the Contractor at the time of initial order. The Contractor's Tangible Cost Component monthly price must be the same for both brands offered.
3. Provide a complete listing of all hardware proposed under this agreement, by product brand name, model, and manufacturer. The offeror must state clearly the brand, model and configuration of the base unit proposed to meet the SMS standards for each configuration. This shall become the minimum configuration that may be supplied. Offeror must provide as part of the electronic response, manufacturer's standard specification sheets for all proposed hardware.
4. Provide a complete listing of the manufacturer's distributors, aggregators, master dealers, or other entities in the manufacturer's supply chain that may supply product(s) and/or support for product(s) to the offeror, for his purposes of performing under this agreement, by distributor, manufacturer, and product name.
5. Provide a contact listing for each manufacturer and distributor. Provide a responsible manufacturer and distributor contact person who can verify and attest in writing to the following:
  1. offeror's formal business relationship with manufacturer/distributor (i.e. regular dealer)
  2. distributor's formal business relationship with manufacturer (i.e. authorization)
  3. offeror's adequate line-of-credit, for purposes of supporting this agreement (i.e. credit limit)
  4. distributor's and manufacturer's commitment to supporting offeror on this contract
6. Provide a listing, certified by each manufacturer, of all standards, voluntary or otherwise (i.e. FIPS, IEEE, ANSI, Microsoft, etc.) that the proposed hardware conforms with, and also a listing of any laboratory testing results (NSTL, UL, etc.) available for the proposed hardware, as well as copies of the lab reports.

**SOFTWARE:**

The Commonwealth enjoys various statewide software contracts with Microsoft, IBM/Lotus, Novell and other software publishing companies. All application software will be obtained from these COV contracts (or through other means) by individual agencies for use on PCs supplied under this agreement. The *Commonwealth* desires Contractor support for the broadest possible selection of

software titles, under this agreement. Please describe in detail your general software support capabilities and manufacturer

### **SMSCOV STANDARDS (CONTINUED)**

Certification(s), which allow your firm to support both end user/client and agency MIS levels of support for application software titles that may be of interest to The Commonwealth.

**APPLICATION SOFTWARE:** Propose support for Microsoft's complete family of application software products, as well as any other software families, suites or applications (provide list) your firm can support.

**SPECIALTY USE SOFTWARE:** Propose support for any specialty Commercial Of-the-Shelf (COTS) software that your firm can support. Please list by category, i.e. communications, graphics, etc.

**OPERATING SYSTEMS:** Microsoft's Windows 9X and 2XXX families of OS software must be proposed. Contractor must supply and support these Microsoft products.

**DRIVERS:** Contractor must supply and support drivers for any and all devices supplied under this agreement.

### **SERVICE LEVEL REQUIREMENTS SUMMARY**

A method of measuring and evaluating performance levels and user/client levels of satisfaction with each Service Level must be proposed. Quarterly reports of measurement and annual reports of user/client satisfaction must be provided to the Contracts Manager, DIT, and each agency contact.

#### **Contractors must meet or exceed the following Service Levels:**

##### **1. SL1: Service Level 1 - Maintenance of hardware and eligible software.**

Contractor acknowledges call with agency contact within 1 hour of notification of a problem, and where the problem is fixed or the computer is replaced within 24 clock hours of the initial call from agency.

##### **2. SL2: Service Level 2 - Maintenance of hardware and eligible software.**

COV SL2 response is for mission critical applications and situations where The Commonwealth places a higher degree of importance on the problem call. Contractor acknowledges call with agency contact within 1/2 hour of notification of a problem, and where the problem is fixed or the computer is replaced within 4 clock hours of the initial call from agency.

##### **3. FORECAST, DELIVERY and INSTALLATION:**

Each subscribing user agency should provide the Contractor with a rolling forecast, updated on at least a 30-day basis. Units included in the forecast must be delivered within a five days of the forecast date (requested install date), provided such units were included in the previous month's forecast. Units not

included in the forecast should be installed within 20 calendar days of receipt of order, unless a delayed delivery is requested

#### **SMSCOV STANDARDS (CONTINUED)**

##### **4. MACs:**

Moves, additions and changes should be completed within 5 days of agency request.

One (1) MAC, per-seat or per-server, per year should be included in pricing for all configurations.

##### **5. Reports:**

A running *Commonwealth* inventory report must be submitted monthly.

##### **6. Meetings:**

Required stated elsewhere in the Request for Proposals.

##### **7. IFA:**

Submission of the IFA is required quarterly as defined in the attached Terms and Conditions.

##### **8. VENDOR ASSETS:**

All proposed hardware must meet or exceed the following levels of performance, subject to possible invoice reduction:

- less than or equal to 3% initial failure rate, for all units delivered, out-of-the-box
- 95% up-time or in-service-time, during any 48 hours, subsequent to acceptance,

Offerors must provide written statements signed by a responsible party of the manufacturer, or other manufacturer's documentation, for each brand of equipment offered under this agreement, which will verify compliance with the levels of performance listed above.

**APPENDIX "2" - COV QUALIFICATIONS FORM**

**The offeror must supply the following a minimum:**

Resume of resource, including current employer, certifications held, and intended utilization.

Evidence of: Knowledge, Experience and Proficiency in the area of intended utilization.

**APPENDIX “3” - CLIENT REFERENCE FORM**

The offeror shall provide the following , as a minimum, for his firm and each sub-Contractor who will be utilized under this contract.

Company Name

Location

Contact Person

Telephone Number

## **XI. DESIRABLE CONTRACTUAL TERMS AND CONDITIONS**

The following terms and conditions are desirable. The Contractor may propose alternative language, but the basic form of the Agreement shall be retained. Contractors are requested to limit their proposed changes, if any, to those of a substantive nature.

### **1. SCOPE OF AGREEMENT**

This is an agreement (the "Agreement" or "Contract") between the *Commonwealth of Virginia* hereinafter referred to as "*Commonwealth*", "State", or "DIT" (Department of Information Technology) and \_\_\_\_\_ (the "Contractor"), a \_\_\_\_\_ corporation having its principal place of business at \_\_\_\_\_, for the purchase of Seat Management Services (Services) pursuant to the *Commonwealth's* Request For Proposal #2000-15, dated February 8, 2000 (the "RFP") and the Contractor's proposal, dated April 12, 2000 in response thereto.

### **2. PURCHASE OPTION**

In the event of termination for default, the Commonwealth may at its discretion purchase the Assets in place. The costs to the Commonwealth for the purchase can be calculated by using the formula; \_\_\_\_\_. The purchase shall be for hardware, or equipment only and does not include Services or Software. Subsequent to the *Commonwealth's* purchase, all contractual obligations for that SEAT are terminated by both parties.

### **3. AUTHORIZED REPRESENTATIVES**

This Contract may be modified in accordance with Section 11-55 of the Code of Virginia. The only representatives authorized to modify this Agreement on behalf of the *Commonwealth* and the Contractor are shown below.

CONTRACTOR

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF VIRGINIA

Contracts Manager  
Dept. of Information Technology  
Richmond Plaza Bldg., Lobby Level  
110 South 7th Street  
Richmond, VA 23219

### **4. ACCEPTANCE, TESTING AND COMPLIANCE WITH SPECIFICATIONS**

To qualify for acceptance, all Services identified by a specific Order must concurrently perform in accordance with the technical specifications and functional descriptions, as contained or referenced in this Agreement, at an



average effectiveness level of 95% or more, calculated over a period of 48 hours. Agency shall not pay any charges, either beforehand or retroactively, associated with the Contractor's requirement to achieve this performance level. If the Services do not meet the standard of performance during the 48 hour test, the acceptance period may continue on a day to day basis until all Services, comprising the Order, concurrently meet the 95% System Availability level, or Agency may not accept the Contractor's Services identified by the Order, and the Order shall automatically terminate at no cost to the *Commonwealth*. In the absence of any correspondence from the *Commonwealth* that identifies non-conformance, the Contractor shall determine the Services, accepted by the Commonwealth.

Should it be necessary, the Commonwealth may delay the start of any individual acceptance test, but such a delay shall not exceed thirty consecutive days.

## **5. SITE AVAILABILITY and DELIVERY**

The Commonwealth shall have the site or location ready for the Services to be installed at the time of delivery as identified in the Order. Should the Commonwealth not have the site available for Services at the agreed to date, then the Commonwealth entity may be charged a fee equal to the amount of expenses incurred by the Contractor as identified in this Agreement, for the attempted delivery.

Any equipment, materials, shall be delivered to the Commonwealth location FOB destination at the price offered, to include shipping and handling charges or fees. Contractor shall arrange for delivery of the Services (equipment, hardware, or other), to the Commonwealth premises on the dates agreed to by both parties. The Commonwealth will not be financially obligated or responsible for any equipment, hardware, or other while stored on the Commonwealth property, until such is installed and considered Services.

Contractor's authorized representatives shall have access to Commonwealth's location during normal business hours in accordance with all security procedures for that specific location and as may be identified herein.

## **6. FIELD MODIFICATIONS AND OR ENGINEERING CHANGES**

During the term of this Agreement, Contractor agrees to keep the Services provided hereunder at the latest OEM sponsored modifications and or engineering change. Such upgrades shall be made as soon as practical after the notification and or engineering change is announced by the OEM to the public, but in no event shall the modification and or engineering change be installed by Contractor later than thirty days after such notification. There shall be no charge to DIT for any such modification and or engineering change. Such changes shall be made at times which will not impact the user's business operations.

## **7. MAINTENANCE**

During the term of this Agreement, Contractor agrees to provide all labor, parts and travel necessary to maintain the Services and Assets at a Systems Availability level of 95% uptime. The Contractor shall provide on-site maintenance service for all equipment assets, in either of two Service Levels:

1. Service Level 1; Contractor acknowledges call within one (1) hour of receipt and problem is corrected within 24 hours of initial call. This correction may involve total or partial replacement of Asset or component/s as necessary.
2. Service Level 2; Contractor acknowledges call within one half (1/2) hour of receipt and problem is corrected within 4 hours of initial call. This correction may involve total or partial replacement of Asset or component/s as necessary.

## **8. LIQUIDATED DAMAGES**

The parties recognize that, if delivery of the Services identified in the Agreement are not accomplished within the time limits above, DIT's damages will be difficult to quantify. Therefore, if the Services are not ready for acceptance testing within 24 hours, after the Contractor agreed to delivery and install date, the parties agree that Contractor shall pay daily liquidated damages that would equal the costs the Commonwealth would have paid for the Services for each day the Services are not installed. However, if the ascertainable portion of the Commonwealth's damages exceeds the foregoing liquidated amount, then the Contractor shall pay the ascertainable portion and shall have no liability for any remaining damages.

## **9. INCREASE IN FEES**

All fees for Services are due monthly in arrears. There are no additional fees authorized by this Agreement and Contractor shall invoice only for those fees set forth in this Agreement or any executed Delivery Order or Purchase Order referencing this Agreement. After 12 months from Contract execution and annually thereafter, the Contractor may request an increase in labor rates associated with this Agreement in accordance with the CPI-W index entitled "Other Services". The percentage increase shall not exceed the above index's most recent percentage available to the Commonwealth as published by the Bureau of Labor Statistics' Philadelphia Office. If such prices remain the same or decrease for succeeding years, DIT shall be afforded the opportunity to renew the Services identified in this Agreement at the lowest price available to other customers.

## **10. CREDITS**

Any credits due the Commonwealth under the terms of this Agreement may be applied against Contractor's invoices to the applicable agency with appropriate information attached.

## **11. TITLE**

In the event of default, wherein equipment is purchased, Title shall pass to the Commonwealth when all agreed to monies have been paid by the Commonwealth.

## **12. SUPPLIES**

Authorized charges do not include operational supplies (e.g., paper, tape, etc.) unless such supplies are specifically identified in the Appendix. All supplies used by the State shall conform to the Contractor's published specifications provided to State at time of equipment installation. The State reserves the right to acquire such supplies from any Contractor of its choice.

## **13. EQUIPMENT REPLACEMENT**

In the event that the Asset, or component thereof, furnished under this agreement experiences continual maintenance downtime, and as a result is inoperative in excess of 5% of total time available for daily service (e.g., 45 hours per week, 180 hours per month, 5% = 9 hours per month) for three consecutive calendar months, the State reserves the right to require the Contractor to replace the Asset at no cost to the State. The replacement shall be installed no later than five (5) days after the State requests the Contractor to provide a replacement.

## **14. RESTRICTIONS ON USE OF ASSET/S**

The Commonwealth shall:

- a. keep the Asset/s free and clear of all claims, liens and encumbrances.  
*and*
- b. not use the Asset/s in any manner or for any purpose for which the Asset/s is not designed or reasonably suited  
*and*
- c. shall not permit any physical alteration of the Asset/s without the prior written consent of the Contractor.  
*and*
- d. shall not affix, attach or install any accessory, equipment or device in connection with the Asset/s that might interfere with the operational capacity of the Asset/s. All repairs, parts, supplies, accessories, equipment and devices affixed to the Asset/s shall be deemed accessions to the Assets/s, and unless such accessories can be removed without damaging the Asset/s or interfering with its operation capacity, they shall become the property of the Contractor, provided, however, that Contractor may, at its option, have the Asset/s restored to its original configuration and condition (ordinary wear and tear expected) at Commonwealth's expense upon termination of this Agreement  
*and*
- e. shall not affix the Asset/s to any real estate in such a way that it may be deemed a fixture thereto  
*and*
- f. shall not remove the Asset/s from the designated Commonwealth Premises without the prior written consent of Contractor, except in the event of an emergency or in such cases that such Asset/s are designed for portability.

**15. OWNERSHIP OF ASSET/S**

During the terms of this Agreement, or any extension thereof, the Asset/s shall at all times, be and remain the sole and exclusive property of the Contractor or its assign, subject to the Parties' right under any applicable software license agreement. Commonwealth shall have no right, title or interest in the Asset/s. The Commonwealth agrees to allow Contractor to execute Uniform Commercial Code financing statements evidencing the interests of Contractor or its assign in any Schedule or any amounts due thereunder or the Asset/s.

**16. CONTRACTOR ACCESS TO COMMONWEALTH LOCATION/S**

Commonwealth shall grant to Contractor personnel such access to the Commonwealth location as may be necessary or appropriate for Contractor to perform its obligations under this Agreement, subject to all security issues. For any individual Commonwealth location, the Contractor may be required to undergo additional security procedures that may include but not be limited to; records verification, submission of photos and or fingerprints, etc. The Contractor may at any time, for any Commonwealth location, be required to undertake the execution and completion for each individual employee, the requirement of the submission of additional forms that the Commonwealth would consider reasonable for security measures. These forms may include the individual employee's agreement that all Commonwealth information that is garnered while at the Commonwealth site is confidential and proprietary. Any unauthorized release of proprietary information by the Contractor or Contractor's employees shall constitute a breach of this Agreement.

**17. MOVEMENT OF EQUIPMENT**

All equipment relocations shall be performed by the Contractor.

## **XII. MANDATORY CONTRACTUAL TERMS AND CONDITIONS**

The following terms and conditions are MANDATORY and shall be included in any contract awarded.

### **18. ETHICS IN PUBLIC CONTRACTING**

By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or sub-Contractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

### **19. NON-APPROPRIATION**

All payment obligations under this Agreement are subject to appropriated funds being available for expenditure for that purpose. The Commonwealth shall promptly notify the Contractor of any action denying such funding. In such event, any outstanding Orders shall be canceled without further obligation to the extent the affected Products or Services have not yet been duly delivered and accepted.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate the Order for goods or services dependent on such Federal funds, without further obligation.

### **20. GOVERNING LAW**

This Agreement shall be deemed executed in Richmond, Virginia. This Agreement and any disputes arising under it, shall be governed by the laws of the *Commonwealth of Virginia*. Any litigation arising in connection with this Agreement shall be brought in the courts of the *Commonwealth of Virginia*. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

### **21. INTERPRETATION OF AGREEMENT**

As used in this Agreement, "software" and "software product" shall include all related materials and documentation, whether in machine-readable or printed form.

Headings are for reference purposes only and shall not be considered in construing this Agreement.

The documents comprising this Agreement, and their order of precedence in case of conflict, are: (1) all executed Orders and Attachments referencing this Agreement; (2) this document; (3) the Contractor's proposal submitted in response to the Commonwealth's Request For Proposal ("RFP"); and (4) the Commonwealth's RFP.

The foregoing documents represent the complete and final agreement of the parties with respect to the subject matter of this Agreement.

If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.

Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

## **22. ANTI-DISCRIMINATION**

By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and Sections 11-51 of the Virginia Public Procurement Act.

1. During the performance of this Agreement, the Contractor agrees as follows:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disabilities except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
  - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The Contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each sub-Contractor or vendor.

## **23. IMMIGRATION REFORM AND CONTROL ACT OF 1986**

By submitting their proposals, offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

**24. DEBARMENT STATUS**

By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contract for the type of goods and or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

**25. ANTITRUST**

By entering into a contract, the Contractor conveys, sells, assigns and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

**26. PRIME CONTRACTOR RESPONSIBILITY**

If the Contractor's proposal includes any goods or services to be supplied by another party, the Contractor agrees as follows:

- a. The Contractor shall act as prime Contractor for the procurement and maintenance of all the Assets and Services delivered hereunder and shall be the sole point of contact with regard to all obligations under this Agreement.
- b. The Contractor hereby represents and warrants that the Contractor has made such other party aware of the proposed use and disposition of the other party's Assets or Services, and that such other party has agreed in writing that it has no objection thereto.

**27. CONTRACTUAL DISPUTES**

In accordance with Section 11-69 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the purchasing agency no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The purchasing agency shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under Section 11-71 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 11-70, Code of Virginia or the administrative procedure authorized by Section 11-71, Code of Virginia.

The Department of Information Technology, its officers, agents and employees, including, without limitation, the Contracts Manager, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the goods or services identified in Attachment "A" to this Agreement or on the subsequent Order in question and will not be joined as a party to any dispute that may arise thereunder.

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

## **28. INVOICES**

All invoices shall be rendered promptly after all Services covered by the invoice have been accepted. All payments for Services shall be monthly in arrears. No invoice may include any costs other than those identified in the executed Order or Attachment referencing this Agreement. Without limiting the foregoing, all shipping costs are the Contractor's responsibility. Invoices shall provide at a minimum:

- 1 Type and description of the Service;
2. Serial number, if any;
3. Charge for each item, and;
4. This Agreement Number and the individual Order Number referencing this Agreement;
5. Contractor's Federal Identification Number (FIN);

Payment for Services of less than one month's duration shall be prorated at 1/30th of the basic monthly charges for each calendar day.

## **29. PROMPT PAYMENT**

Payment shall be due within thirty (30) days after (1) acceptance of all Assets or Services, (2) receipt of a correct invoice for such payment, and (3) when applicable, receipt of the payment instruction form referenced in the Section entitled ("Assignments"), whichever is latest. Where payment is made by mail, the date of postmark shall be deemed to be the date of payment. Any amounts due the Commonwealth under the terms of this Agreement may be applied against Contractor's invoices with appropriate information attached.

In accordance with the Virginia Public Procurement Act, all proper charges for which payment is more than seven (7) days overdue shall accrue interest as provided in Sections 11-62.1 through 11-62.9 of the Code of Virginia. The rate of interest shall be determined in accordance with Section 11-62.5 of the Code of Virginia. In no event shall any interest penalty accrue, however, when payment is delayed because of a disagreement between



the *Commonwealth* and the Contractor regarding the quantity, quality or time of delivery of any Asset or Service or the accuracy or correctness of any invoice. The Contractor shall notify the Controller, or appropriate fiscal officer of the affected agency, institution, locality or individual user of all invoices that are in excess of thirty (30) days old.

### **30. PAYMENTS TO SUB-CONTRACTORS**

In accordance with Section 11-62.11 of the Code of Virginia, within seven days after receipt of amounts paid to the Contractor by the *Commonwealth* for work performed by a sub-Contractor, the Contractor shall:

- a. pay the sub-Contractor for the proportionate share of the total payment received from the agency attributable to the work performed by the sub-Contractor, or
- b. notify the agency and sub-Contractor, in writing, of the Contractor's intention to withhold all or a part of the sub-Contractor's payment with the reason for nonpayment.

The Contractor shall pay interest to the sub-Contractor on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the *Commonwealth* for work performed by the sub-Contractor, except for amounts withheld as allowed in (b) above. The Contractor shall provide its federal employer identification number (or social security number, if Contractor is an individual) to the *Commonwealth* as required by Section 11-62.11(2) of the Code of Virginia. Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month. The Contractor shall include in each of its subcontracts a provision requiring each sub-Contractor to be subject to the same payment and interest requirements with respect to each lower-tier sub-Contractor. Nothing in this paragraph shall be construed as creating any obligation on the part of the *Commonwealth* or as authorizing any additional charge to the *Commonwealth*.

### **31. THIRD PARTY BILLING**

All Assets or Services provided under this Contract, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, or such lesser price as agreed upon between the parties, regardless of which public agency or individual user is being billed.

### **32. BREACH**

The Contractor shall be deemed in breach of this Agreement if the Contractor (a) fails to make any Product or Service ready for acceptance testing by the specified delivery date; (b) repeatedly fails to respond to requests for maintenance or other required service within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or (d) fails to provide a written response to the *Commonwealth's* Show Cause Notice within ten days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its sub-Contractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the *Commonwealth* in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the *Commonwealth* may cancel its obligations with respect to any or all unaccepted Products or Services. All costs for de-installation and return of Products shall be borne by the Contractor. In no event shall any failure by the *Commonwealth* to exercise any remedy available to it be construed as a waiver of or consent to any breach.

### **33. COMPLIANCE WITH FEDERAL LOBBYING ACT**

a. Contractor shall not, in connection with this Agreement, engage in any activity prohibited by 31 U.S.C.A. Section 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Agreement, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

b. Contractor is hereby advised that a significant percentage of the funds used to pay Contractor's invoices under this Agreement may be federal funds. Under no circumstances shall any provision of this Agreement be construed as requiring or requesting the Contractor to influence or attempt to influence any person identified in 31 U.S.C.A. Section 1352 (a) (1) in any matter.

c. A representative of Contractor shall sign the certification attached as Attachment "B" and deliver such certification to the Commonwealth simultaneously with the execution and delivery of this Agreement. Contractor shall have the certification signed by a representative with knowledge of the facts and shall fulfill the promises of undertakings set forth in the certification.

### **34. PRECEDENCE OF TERMS**

All paragraphs as delineated in these Mandatory Terms and Conditions, shall apply in all instances. In the event there is a conflict between any of the other Terms and Conditions, Attachments, Schedules, Orders, Modifications, or other documentation attached to or referencing this Agreement, then the Mandatory provisions of this Section shall govern.

### **35. TAXES - FEDERAL, STATE AND LOCAL**

The *Commonwealth* is exempt from Federal excise tax and from all State and local taxes. The Contractor shall not include such taxes in any invoices under this Agreement. Upon request, the *Commonwealth* shall furnish the Contractor with tax exemption certificates.

**36. LIABILITY**

Contractor shall maintain such personal injury and property damage liability insurance as necessary to protect itself from claims arising out of the performance of this Agreement. Contractor shall indemnify and hold harmless the *Commonwealth*, its officers, agents and employees from any and all claims, suits, actions, liabilities and costs of any kind, including attorneys fees, for personal injury and damage to real or personal property arising from the wrongful acts or omissions of the Contractor, its agents, officers, employees or sub-Contractors.

Except as stated in this provision, in no event shall either party be liable to the other party for any indirect, special or consequential damages arising out of any breach of its obligations under this agreement.

**37. ASSIGNMENT**

To the fullest extent permitted by law, the parties agree that Contractor's rights under this Agreement shall not be assignable, in whole or in part, to any other party without the Department of Information Technology's (DIT's) written consent, and that any purported assignment or transfer without such consent shall be null and void. If any law limits the right of the parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be as follows. The Contractor shall give the Contracts manager, DIT prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee. This written notice shall be on the Department of Information Technology's (DIT's) "Assignment Notice / Payment Instruction" form and shall provide all information requested on that form. Copies of the form may be obtained from the Contracts Manager DIT. Upon DIT's acknowledgment of receipt of the properly executed form, the Assignee shall notify the agency, institution, locality or individual user of the assignment and shall supply the affected party with a copy of the properly executed form. Any payments made prior to DIT's receipt of such notification and form shall not be covered by this assignment.

In the event the DIT receives any notice from a third party claiming to be an assignee of any rights of the Contractor under this Agreement, Contractor agrees that payment or other performance in respect of those rights shall not be due until at least thirty days after DIT's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. The Acquisition Services Division of DIT shall promptly notify the Contractor of any assignment notice it receives.

**38. FUTURE EVOLUTION AND NEW DEVELOPMENT OF SERVICES**

It is the intent of this Agreement to allow the inclusion of Services as they are developed and tested by the industry. Should new equipment be developed that would precipitate new Services being available to the *Commonwealth*, then at the *Commonwealth's* sole discretion, these new Services may be added to the Contract via a Modification mutually agreed upon by both parties.

**39. TERM**

This Agreement shall take effect on the date of its final execution by both parties, and shall continue for a period of three (3) years, unless sooner terminated as provided in this Agreement. Upon expiration of the initial term, the Agreement may be renewed for four (4) additional one year periods, at the *Commonwealth's* discretion. Should the *Commonwealth* choose to renew the Agreement, a written notice shall be sent to the Contractor 90 days prior to the end of the then current term. The Agreement shall continue after the expiration date only for the Services duly Ordered and Delivered prior to the expiration date. The Agreement will expire after all Services identified in an individual Order referencing this Agreement have been completed.

**40. RETURN OF ASSET/S**

Except as otherwise provide in this Agreement, or upon termination of this Agreement, *Commonwealth* shall immediately make the *Commonwealth* location available to the Contractor for de-installation of Asset/s by the Contractor. The Contractor shall bear all costs of de-installation of the Assets and return shipping to the Contractor's facility.

**41. NEW EQUIPMENT**

All Assets furnished under this Agreement as a basis for Services, shall be new, unused equipment.

**42. CONTRACTUAL RECORDS**

The Contractor shall make all contractual books and records and other documents relating to matters under this Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of five years after final payment. Contractual records include, but are not limited to, this Agreement and all executed Orders, Attachments, modifications, invoices, and correspondence between the parties to this Agreement

**43. PROPRIETARY INFORMATION, DUPLICATION AND DISCLOSURE**

The Contractor agrees that all software installed and utilized on Contractor's Assets contains information proprietary to the *Commonwealth of Virginia* and other third party software vendors and that disclosure of such information could cause irreparable damage to the *Commonwealth of Virginia* and its citizens. Therefore, Contractor agrees to hold all information and or software disclosed through operation of this Agreement in strict confidence, as required by this Section and use such information only in performance of this Agreement. No information or software utilized by the *Commonwealth* while at Contractor's facilities shall be duplicated or furnished to others without the prior written consent of DIT.

Contractor acknowledges that in the course of performing services hereunder its personnel and sub-Contractors (if any) will have access to confidential information about COV's business, operations, employees, customers.

Contractor agrees that, except as directed by COV, Contractor its employees and its sub-Contractors shall not at any time during or after the term of this Agreement (a) disclose any Confidential Information to any third party, (b) permit any third party to examine and/or make copies of any reports, documents or electronic data containing Confidential Information (whether they are prepared by Contractor or come into Contractor's possession or under Contractor's control by reason of Contractor's services) or (c) use any Confidential Information for any reason other than in the performance of services hereunder. Upon termination of this Agreement, Contractor shall return to COV or at COV's request destroy, all reports, documents, electronic data and other matter in Contractor's possession or under Contractor's control that contain or relate to Confidential Information. Contractor may disclose Confidential Information to such of its personnel as have a need therefore in the performance of their duties for COV, provided, however, that Contractor shall inform all such personnel of their confidentiality obligations hereunder and shall use its absolute best efforts to ensure their compliance therewith. Contractor shall not be required to treat as confidential any information which:

- (a) Contractor can demonstrate was in its possession prior to execution of this Agreement
- (b) has become generally available in the public domain without breach of this Agreement
- (c) becomes lawfully available to Contractor from a source other than the Commonwealth

ANY RELEASE OF PROPRIETARY OR CONFIDENTIAL INFORMATION BY THE CONTRACTOR OR CONTRACTOR'S EMPLOYEES SHALL BE CONSIDERED A BREACH OF THIS AGREEMENT. THE CONTRACTOR SHALL NOT USE THE CONFIDENTIAL INFORMATION OF THE *COMMONWEALTH* FOR ITS OWN BENEFIT OR FOR THE BENEFIT OF ANY THIRD PARTY. THE PROVISIONS OF THIS SECTION SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT IN PERPETUITY.

#### **44. PERIODIC PROGRESS REPORTS/INVOICES**

For contracts requiring the submission of periodic contract performance progress reports or program status reports, the offeror will include a section on involvement of small businesses and businesses owned by women and minorities. This section will specify the actual dollars contracted to-date with such businesses, actual dollars expended to-date with such businesses and the total dollars planned to be contracted for with such businesses on this contract. This information shall be provided separately for small businesses, minority-owned businesses and women-owned businesses.

If the contract does not require the submission of periodic progress reports, the offeror will provide the above required information on actual involvement of small businesses and businesses owned by minorities and women as part of their periodic invoices.

#### **45. FINAL ACTUAL INVOLVEMENT REPORT**

The Contractor will submit, prior to completion or at completion of the contract and subject to final payment, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of the contract. At a minimum, this report shall include for each firm contracted with and for each such business class (i.e., small, minority-owned, women-owned) the total actual dollars spent on this

contract, the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated contract value. A suggested format is as follows:

FIRM NAME				
ADDRESS AND PHONE NUMBER	TYPE GOODS/ SERVICES	ACTUAL DOLLARS	PLANNED DOLLARS	% OF TOTAL CONTRACT
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals for Business Class		_____	_____	_____

#### **46. CONTRACTOR'S REPORT OF SALES**

The Contractor must report the quarterly dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this Contract by calendar quarter; i.e., January through March, April through June, July through September, and October through December. The dollar value of a sale is the price paid by the user for products and services on a Contract order as recorded by the Contractor. The reported Contract sales value must include the Industrial Funding Adjustment, as delineated in paragraph entitled "Industrial Funding Adjustment". The Contractor shall provide this report in hard copy to the Controller, DIT, and a copy of the report to the Contracts Manager, DIT, both within 30 days after the end of each quarterly reporting period as defined herein. The report must show each individual item and quantities purchased and the purchaser. The report is required to be hard copy. DIT may at a later time, agree to an electronic version of the report, however, in lieu of any express agreement by both parties as to the electronic format, DIT will only accept a hardcopy version. The Contractor shall define "sale" prior to the first reporting period and then shall maintain that definition through out the term of this Agreement. Sale may be defined as; 1) when the Commonwealth pays the purchase price, or 2) when the *Commonwealth* accepts the Products or 3) other as defined by the Contractor.

#### **47. INDUSTRIAL FUNDING ADJUSTMENT**

The Contractor must pay DIT, an Industrial Funding Adjustment (IFA). The Contractor must remit the IFA within 30 days after the end of each quarterly reporting period as established in the clause entitled "Contractor's Report of Sales". The IFA equals two percent (2%) of the total quarterly sales reported. Contractor shall remit the IFA together with a copy of the Contractor's Report of Sales as delineated in the above paragraph. The IFA reimburses the Commonwealth and defrays the costs for IT procurement and the administration of the subsequent awards. The IFA amount due must be paid by check with identification of "Contract number", "report amounts", and "report period", on either the check stub or other remittance material. DIT may at its discretion, agree to an electronic funds transfer, in lieu of a check, however in the absence of an express written agreement from DIT that validates agreement, then the payment shall be made by check as described herein made payable to the Controller, DIT.

If the full amount of the IFA is not paid within 30 calendar days after the end of the applicable reporting period, it shall constitute a Contract debt to the *Commonwealth of Virginia*, and the State may exercise all rights and remedies available under law. Failure to submit sales reports, falsification of sales reports, and or failure to pay the IFA in a timely manner may result in termination or cancellation of this Contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the IFA constitutes sufficient cause for terminating this Contract for default.

It is the intent of the *Commonwealth* to capture 2% of all sales, including temporary reduced pricing, fire sales, one time sales, trade ins, promotional items that have been marked down and all sales to the *Commonwealth* under this Agreement.

#### **48. NON-VISUAL ACCESS TO TECHNOLOGY:**

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the *Commonwealth* (the "Technology") shall comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- (i) effective interactive control and use of the Technology shall be readily achievable by non-visual means;
- (ii) the Technology equipped for non-visual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- (iii) non-visual access technology shall be integrated into any networks used to share communications among employees, program participants or the public: and
- (iv) the technology for non-visual access shall have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (I) the Technology is not available with non-visual access because the essential elements of the Technology are visual and (ii) non-visual equivalence is not available.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of non-visual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

The requirements of this Section shall be construed to achieve full compliance with the Information Technology Access Act, 2.1-807 through 2.1-811 of the Code of Virginia.

#### **49. MODIFICATIONS**

This Contract may be modified in accordance with Section 11-55 of the Code of Virginia. No modifications to this contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing. For purposes of the Contract, the only authorized representative for the *Commonwealth* shall be the Contracts Manager, DIT or his duly designated designee. Any contract issued on a firm fixed price basis may not be increased more than twenty five percent (25%) or \$10,000.00 whichever is greater, without the approval of the Governor of the *Commonwealth of Virginia* or his authorized designee.

#### **50. TITLE SOFTWARE/FIRMWARE**

The Contractor represents and warrants that it is the sole owner of the software/firmware product or, if not the owner, has received all proper authorizations from the owner to license the software/firmware product, and has the full right and power to grant the rights contained in this Contract. Contractor further warrants and represents that the software/firmware product is of original development, and that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person.

#### **51. TERM OF LICENSE**

The license(s) granted to the State are for the use of the software/firmware product at the using agency's computing facilities (site) and on the equipment or for the purposes identified for the term of the Service.

#### **52. TERMS OF USE**

The State's rights in computer software/firmware developed at private expense may be restricted by the Contractor in accordance with this contract. As a minimum, however, the State shall have:

- a. Unlimited use of such software/firmware on the equipment for which it is acquired and any future upgrades of such equipment;
- b. Use of such software/firmware with a backup system if the system(s) for which or with which it was acquired is inoperative because of a malfunction, or during an emergency, or the performance or engineering changes or changes in features or model;
- c. The right to use such software/firmware at any state installation to which the computer(s) may be transferred by the State;
- d. The right to copy such computer programs for safekeeping (archives) or backup purposes;



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**53. VENDORS MANUAL**

As stated in Section 5.4 of the Vendors Manual, in the event of a conflict between the Vendors Manual and other provisions of this Agreement, such other provisions shall take precedence. This Solicitation is subject to the provisions of the *Commonwealth of Virginia Vendors Manual* dated December 1998 and any revisions thereto, which are hereby incorporated into this Agreement in their entirety. A copy of the manual is available from the purchasing office and can also be obtained by calling the Division of Purchases and Supply at (804) 786-3842, or online at: <http://dgs.state.va.us/dps>.

**54. TYPE CONTRACT**

This is an Indefinite Delivery, Indefinite Quantity requirements *Master Contract*.

**ATTACHMENT "A"**  
**TO**  
**AGREEMENT VA-\_\_\_\_\_**

Attachment "A" is hereby incorporated into and made an integral part of this Agreement Number

VA-\_\_\_\_\_, between

\_\_\_\_\_, Contractor, and the

*Commonwealth of Virginia.*

**CONTRACTORS DO NOT ADD ANY INFORMATION TO THIS ATTACHMENT "A" AT THIS TIME. THIS ATTACHMENT WILL BE COMPLETED DURING CONTRACT NEGOTIATIONS BETWEEN THE PARTIES TO THIS AGREEMENT.**

LISTING OF ALL SMS PRICES:

LISTING OF ALL SERVICE LEVELS:

SHIP TO BILL TO ADDRESSES:

DELIVERY SCHEDULE:

AGENCY POINTS OF CONTACT:

**ATTACHMENT "B"**  
**TO**  
**AGREEMENT VA-\_\_\_\_\_**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature:\_\_\_\_\_

Printed Name:\_\_\_\_\_

Organization:\_\_\_\_\_

Date:\_\_\_\_\_